



Peckar & Abramson

A Professional Corporation • Attorneys & Counselors at Law

70 Grand Avenue
River Edge, NJ 07661
tel. 201.343.3434
fax 201.343.6306

Kevin J. O'Connor
Partner

VIA ECF

March 29, 2011

New York	Honorable Arlene R. Lindsay
San Francisco	Honorable E. Thomas Boyle
Los Angeles	United States Magistrate Judge
Orange County	Eastern District of New York
Miami	Long Island Federal Courthouse
Washington, D.C.	100 Federal Plaza
Chicago	Central Islip, New York 11722-4451
London	

**RE: Allen v. Devine, et al., No. 09 Civ. 0668 (ADS) (ETB)
Excelsior v. Devine, et al., No. 10-CV-1319 (ADS) (ARL)
Our File No.: 5122/196500**

Dear Judges Lindsay and Boyle:

www.pecklaw.com

We are counsel to Christopher Devine, a defendant, counterclaimant and third-party plaintiff in *Allen v. Devine, et al.*, No. 09 Civ. 0668 (ADS)(ETB) ("Allen") and a defendant and third-party plaintiff in *Excelsior v. Devine, et al.*, No. 10-CV-1319 (ADS)(ARL) ("Excelsior") (together, the "Related Actions"). On March 17, 2011 a suggestion of death was filed on behalf of C. Robert Allen, III ("Bob Allen"), plaintiff and counterclaim defendant in *Allen* and third-party defendant in *Excelsior*. Bob Allen's son, Luke Allen, is a third-party defendant in *Allen* in his own capacity, a plaintiff and counterclaim defendant in *Allen* as Guardian for the Property Management of C. Robert Allen, III ("Guardian"), and a third-party defendant in *Excelsior* in his capacity as Guardian. Mr. Devine does not seek any relief at this time, however, we wish to bring to the Court's attention that this development may slow down discovery in the Related Actions.

Counsel for Bob and Luke Allen, Cohen & Gresser, has taken the position that, due to Bob Allen's death, it no longer represents any party to either of the Related Actions. Due to this development – and particularly in light of the fact that there were pending discovery disputes with both Bob and Luke Allen at the time the suggestion of death was filed – the parties in the Related Actions are currently unable to fully proceed with discovery until a proper party is substituted for Bob and Luke Allen.

Peckar & Abramson

A Professional Corporation • Attorneys & Counselors at Law

Honorable Arlene R. Lindsay

Honorable E. Thomas Boyle

United States District Court

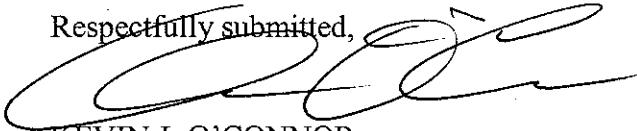
March 29, 2011

Page 2

As the Court is aware, Your Honors so-ordered a joint discovery schedule for the Related Actions on February 14, 2011. At this time, it is unclear how long it will take for an executor for Bob Allen's estate to be appointed. We therefore wish to inform the Court that, depending upon the length of time taken to appoint an executor for Bob Allen's estate and substitute the estate as a party in the Related Actions, it may be difficult for the parties to complete discovery by the current deadlines.

We will keep the Court apprised of further developments, and will make every effort to adhere to the current discovery schedule.

Respectfully submitted,



KEVIN J. O'CONNOR

KJO:ci

338078.1/03/29/11

Enclosures

cc: All counsel of record by ECF